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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:12487 of 2006

DATED: 16-11-2006

Between:
D.Ramesh

..... PETITIONER

AND

1. K.Venkataiah and 3 others

.....RESPONDENTS

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ORDER: (per The Hon'ble Sri Justice Ramesh Ranganathan)

Aggrieved by the order of the Tribunal, in O.A.No.227 of 2004 dated 08-08-2005 and the subsequent order passed in Rev.M.A.No.2514 of 2005 in O.A.No.227 of 2004 dated 19-04-2006, the present writ petition is filed.

The Tribunal in its order, in O.A.No.227 of 2004 dated 08-08-2005, set aside the impugned order and remitted the matter to

the Commissioner, Panchayat Raj, for reconsideration and to pass appropriate orders. The case of the respondent-applicant, before the Tribunal, was that while a show cause notice was given on 09-12-2002 inviting objections to the provisional seniority list and though he had submitted his objections on
23-01-2003, the second respondent, in its impugned order dated
05-09-2003, had failed to take into consideration the objections filed by him and had passed the impugned order. The Tribunal, in paragraph 5 of its order, held that the official respondents in their counter-affidavit did not dispute about the applicant filing objections to the show cause notice, that it was not open to the unofficial respondents to contend that the applicant had not filed any objections and came to the conclusion that, the second respondent had not considered the same. In view of the tacit admission on the part of the official respondents, that the objections filed by the respondent-applicant were not considered, the impugned order was set aside and the second respondent was directed to consider the objections filed by the respondent-applicant and thereafter pass orders in accordance with law.

We find no illegality in the order of the Tribunal warranting interference of this Court under Article 226 of the Constitution of India.

Sri D.Govardhanachary, learned counsel for the petitioner,

would, however, submit that inasmuch as the time stipulated for filing objections to the provisional seniority list was 15 days and since admittedly the respondent-applicant's objections dated 23-01-2003 is after the expiry of the said period, the Divisional Panchayat Officer was justified in not forwarding the objections to the second respondent. This contention is only required to be noted to be rejected. The fact remains that even after the respondent-applicant submitted his objections on 23-01-2003 the second respondent had kept silent for nearly eight months before the impugned order dated 05-09-2003 was passed. Having kept silent for eight months, it is not open to the respondents, not to consider the objections raised by the respondent-applicant merely on the ground that the objections were filed, a week after the stipulated period of 15 days, more so, when the objections had been filed eight months prior to the impugned order being passed. This contention must, therefore, be rejected.

Sri D.Govardhanachary, learned counsel for the petitioner, would further submit that the Tribunal had gone into several other questions which require consideration by this Court. Since we are in agreement with the order of the Tribunal that the objections filed by the respondent-applicant was required to be considered by the second respondent herein and appropriate orders passed thereafter in accordance with law, we leave all other questions open.

Sri D.Govardhanachary, learned counsel for the petitioner, would submit that in order to avoid further delay in finalizing the seniority list, the petitioner herein was waiving his right, if any, to be put on notice. The second respondent shall, therefore, consider the objections raised by the respondent-applicant and pass appropriate orders, in accordance with law, within a period of two months from the date of receipt of a copy of this order.

Subject to the above observations, the writ petition is dismissed. However, in the circumstances, without costs.

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B.PRAKASH RAO, J

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RAMESH RANGANATHAN, J

16th November, 2006

SKM